**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**

**AND**

**HON'BLE SHRI JUSTICE G.BHAVANI PRASAD**

**WRIT APPEAL No.849 of 2004**

Between:

M/s. Aruna Straw Boards Pvt. Ltd.,

Suryaraopalem, Tanuku,

West Godavari District. …Appellant

AND

Superintending Engineer, Operation Circle,

Eastern Power Distribution Corporation of

Andhra Pradesh Ltd., Eluru,

West Godavari District. …Respondent.

**:: JUDGMENT ::**

Counsel for the Appellant : Sri C.Gunaranjan, Advocate

representing Sri C.Kodandaram.

Counsel for the Respondent : Sri D.V.N.Acharya, Advocate

representing Sri M.Subba Rao

**14th FEBRUARY 2006**

**Per G.S.Singhvi, C.J.**

This appeal is directed against order dated 23-4-2004 vide which the learned Single

Judge dismissed the writ petition filed by the appellant against the demand created by Superintending Engineer, Operation Circle, Eluru vide Proceedings No. SE/O/ELR/DE.T/ AAE.T2/F.doc/ D.No.827/04, dated 23-3-2004.

A perusal of the order under appeal shows that the learned Single Judge refused to entertain the appellant's challenge to the demand created by the Superintending Engineer concerned on the ground that an effective alternative remedy of appeal is available to the writ petitioner.

Learned counsel for the appellant made efforts to persuade us to set aside the order of the learned Single Judge by arguing that the so-called remedy of appeal available to his client cannot be treated as an effective alternative remedy, but gave up his attempt in the midst of the arguments and submitted that his client may be permitted to withdraw the appeal with liberty to avail the remedy of appeal under Section 127 of the Electricity Act, 2003 subject to the deposit of 1/3$^{rd}$ of the demand. He further submitted that in the appeal, his client may be allowed to raise all legally permissible objections.

In our opinion, the request made by the learned counsel is reasonable and merits acceptance.

Hence, the appeal is dismissed as withdrawn with liberty to the appellant to file appeal within a period of thirty days from today. The appellant shall also be entitled to make an application to the appellate authority for entertaining the appeal subject to the condition of deposit of 1/3$^{rd}$ amount in terms of Section 127 (2) of Electricity Act, 2003 and also raise all legally permissible objections against the order of assessment.

The appellant shall be free to withdraw 1/3$^{rd}$ amount deposited by him in furtherance of interim order dated 29-4-2004 passed by the Division Bench in WAMP.No.1538 of 2004.

**G.S. SINGHVI, C.J.**

14th February, 2006.

**G.BHAVANI PRASAD, J.**

ARS/vtv